HONOURABLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

and

HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT APPEAL. NO : 2635 of 2005

Between:

P. Venkataramana Raja, S/o. P. Siddama Raju,

Hindu, aged about 67 years, D. No. 4/6, Moola Mattam Thota, Tirumala,

Chittoor District.

..... APPELLANT

AND

The Government of A.P., represented by its Principal
Secretary, Revenue (Endt. III) Department, Secretariat, Hyderabad & others.

.....RESPONDENTS

::JUDGMENT::

Counsel for the Appellant :MR. J. Ugra Narasimha

Counsel for the Respondents : G.P. for Assignments

30th December, 2005

Per G.S. Singhvi, CJ

This appeal is directed against order dated 16-9-2005 passed by the learned Single Judge in W.V.M.P.No.1651 of 2005 (in W.P.No.10390 of 2005) vide which he vacated the ad-interim order dated 29-4-2005 passed in W.P.M.P.No.13433 of 2005.

A perusal of the record shows that in the main writ petition filed by him, the appellant has challenged the draft declaration issued under Section 6 of the Land Acquisition Act, 1894 for acquisition of the land including Door No.4/6, Singamala Street (Old Papavinasanam Road), Tirumala. The appellant has averred that in terms of the policy framed by the Government, he is entitled to alternative site as a condition precedent to his dispossession and the mere fact that his son has already been allotted a plot cannot justify rejection of his claim. He has averred that the allotment made in favour of his son has nothing to do with his entitlement to be allotted alternative site.

While issuing notice of the writ petition, the learned Single Judge passed the following interim order in WPMP No.13433 of 2005.

> "Notice.
>
> Post after vacation. Pending further orders, status quo obtaining as on today as to the nature and possession of the land in question shall be maintained."

After receipt of notice, the respondents filed an application for vacating the interim order on the premise that as a result of stay granted by the Court, the proceedings initiated for acquisition of the land for a public purpose has been stultified.

After hearing the learned counsel for the parties and on perusing the record, the learned Single Judge vacated the ad-interim order by observing that the alternative prayer made by the writ petitioner for allotment of shop can be considered at the time of final disposal of the writ petition.

Learned counsel for the appellant argued that allotment of shop to the appellant's son in terms of the policy framed by the Government is not sufficient to deprive him of his legitimate right to seek allotment of his shop. He emphasized that much before the initiation of acquisition proceedings, there was a family partition and his son had

separated from the family and, therefore, allotment of shop to him under the Government policy cannot be made a ground to deprive the appellant of his legitimate right to seek allotment of shop.

Learned Government Pleader argued that the so-called partition between the appellant and his son cannot be recognized for the simple reason that the appellant was merely a lessee of the property. He further submitted that on the face of allotment of one shop to the appellant's son, the latter cannot seek a direction for allotment of another shop in the guise of partition and in any case, the proceedings of acquisition cannot be halted simply because the appellant has made a prayer for allotment of shop.

We have considered the submissions of the learned counsel. In our opinion, the order of the learned Single Judge does not suffer from any patent legal infirmity, which may justify the interference by the appellate Bench. Admittedly, the appellant's son has been allotted a shop in accordance with the policy of the Government in lieu of acquisition of the disputed land which was leased out to the appellant. Whether or not the appellant is entitled to allotment of shop will have to be decided at the time of final adjudication of the writ petition. This issue may or may not be decided in favour of the appellant. Therefore, at this stage, there can be no justification to stay the acquisition proceedings or continue the stay order earlier passed by the learned Single Judge.

For the reasons mentioned above, the appeal is dismissed. However, it is made clear that the dismissal of this appeal shall not prejudice appellant's cause in the main writ petition.

G.S. SINGHVI, CJ

R. SUBHASH REDDY, J

December 30, 2005

Pnb / svs